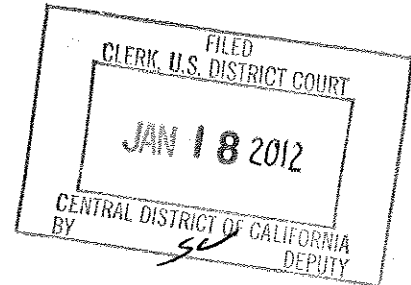


**ORIGINAL**

1 JOHN B. BULGOZDY, Cal Bar. No. 219897  
Email: bulgozdyj@sec.gov  
2 FINOLA H. MANVELIAN, Cal. Bar No. 180681  
Email: manvelianf@sec.gov  
3 BERNARD B. SMYTH III, Cal. Bar No. 217741  
Email: smythb@sec.gov

4 Attorneys for Plaintiff  
5 Securities and Exchange Commission  
Rosalind R. Tyson, Regional Director  
6 John M. McCoy III, Associate Regional Director  
John W. Berry, Regional Trial Counsel  
7 5670 Wilshire Boulevard, 11th Floor  
Los Angeles, California 90036  
8 Telephone: (323) 965-3998  
Facsimile: (323) 965-3908



11 **UNITED STATES DISTRICT COURT**  
12 **CENTRAL DISTRICT OF CALIFORNIA**

13 **SECURITIES AND EXCHANGE**  
14 **COMMISSION,**

15 Plaintiff,

16 vs.

17 **NEWPOINT FINANCIAL SERVICES,**  
18 **INC.; JOHN FARAHI; GISSOU**  
**RASTEGAR FARAHI; and ELAHEH**  
**AMOUEI,**

19 Defendants,

20 and

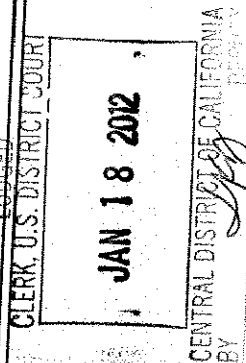
21 **TRIPLE "J" PLUS, LLC; QUIFF**  
22 **INVESTMENTS, LTD.; JUSTIN P.**  
**FARAHI; and JOSHUA A. FARAHI,**

23 Relief Defendants.

Case No. CV-10-0124 DDP (JEMx)

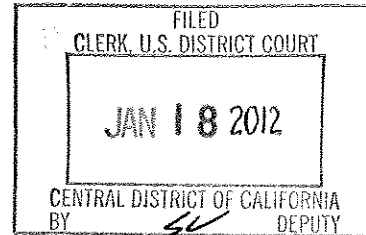
**MEMORANDUM OF POINTS AND**  
**AUTHORITIES IN SUPPORT OF**  
**PLAINTIFF SECURITIES AND**  
**EXCHANGE COMMISSION'S EX**  
**PARTE APPLICATION FILED**  
**UNDER SEAL**

**FILED UNDER SEAL**



JOHN B. BULGOZDY, Cal Bar. No. 219897  
Email: bulgozdyj@sec.gov  
FINOLA H. MANVELIAN, Cal. Bar No. 180681  
Email: manvelianf@sec.gov  
BERNARD B. SMYTH III, Cal. Bar No. 217741  
Email: smythb@sec.gov

Attorneys for Plaintiff  
Securities and Exchange Commission  
Rosalind R. Tyson, Regional Director  
John M. McCoy III, Associate Regional Director  
John W. Berry, Regional Trial Counsel  
5670 Wilshire Boulevard, 11th Floor  
Los Angeles, California 90036  
Telephone: (323) 965-3998  
Facsimile: (323) 965-3908



**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

vs.

NEWPOINT FINANCIAL SERVICES,  
INC.; JOHN FARAHI; GISSOU  
RASTEGAR FARAHI; and ELAHEH  
AMOUEI,

Defendants,

and

TRIPLE "J" PLUS, LLC; QUIFF  
INVESTMENTS, LTD.; JUSTIN P.  
FARAHI; and JOSHUA A. FARAHI,

Relief Defendants.

Case No. CV-10-0124 DDP (JEMx)

**MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT OF  
PLAINTIFF SECURITIES AND  
EXCHANGE COMMISSION'S *EX  
PARTE* APPLICATION FILED  
UNDER SEAL**

**FILED UNDER SEAL**

1 **I. INTRODUCTION**

2 With this *Ex Parte* Application, Plaintiff Securities and Exchange Commission  
3 (“Commission”) seeks the reinstatement of the Court’s order freezing all assets in  
4 Relief Defendant Quiff Investments, Ltd.’s (“Quiff”) brokerage account maintained at  
5 Interactive Brokers, LLC (the “Quiff Interactive Account”). A temporary freeze of  
6 that account was ordered by the Court on March 17, 2010, based on evidence  
7 suggesting that the account was controlled by Defendant John Farahi and possibly  
8 contained defrauded investor funds. That asset freeze was lifted after Farahi  
9 represented to the Court in a sworn declaration and deposition that, among other  
10 things, he did not know about the source of the funds in the account, had no control  
11 over the account’s funds, and did not obtain the money in the account from investors.  
12 However, evidence uncovered in the related criminal proceedings filed against Farahi  
13 in December 2011 established that Farahi’s representations to the Court in this case  
14 were false and that the Quiff funds were properly frozen.

15 Specifically, admissions by Farahi and specific findings by the court in that  
16 related criminal proceeding confirm the falsity of Farahi’s claims to this Court.  
17 Magistrate Judge Kenton found that “Mr. Farahi was intricately involved in the Quiff  
18 matter . . . and that he called the shots, if you will, regarding what happened to those  
19 funds. . . . [T]hey were only freed up when – largely based upon what apparently is  
20 false information provided by – primarily by Mr. Farahi to a federal court that he had  
21 no connection.” Evidence was also presented that Farahi admitted that he referred  
22 investors to Quiff. Moreover, since the freeze over the account was lifted, funds have  
23 been used for Farahi’s personal benefit, including to pay his legal fees.

24 Thus, contrary to what Farahi represented to this Court, it now appears that he  
25 did control the Quiff Interactive Account and that money in that account was obtained  
26 by investors solicited by Farahi. Therefore, the asset freeze over the account should  
27 be reinstated. Moreover, so that all funds appropriate to satisfy the ultimate  
28 disgorgement order in this case are preserved, the Commission also seeks (1) a freeze

1 of any assets disbursed from the Quiff account from the time the asset freeze over the  
2 account was lifted that are in the custody or control of Quiff, Farahi, and/or their  
3 officers, agents, servants, employees, attorneys, subsidiaries, members, relatives,  
4 and/or affiliates, and (2) an accounting by Farahi and Quiff of any disbursements  
5 made from the Quiff Interactive Account from the time that the asset freeze over the  
6 account was lifted.

7 The Commission requests, pursuant to Local Rules 7-19 and 7-19.2, that the  
8 Court consider its *Ex Parte* Application without prior notice to the defendants in order  
9 to prevent further dissipation of investor funds and other assets by the defendants  
10 before the Commission's Application is considered.

## 11 **II. STATEMENT OF FACTS**

### 12 **A. Procedural Background**

13 On January 8, 2010, the Commission filed its complaint against NewPoint  
14 Financial Services ("NewPoint"), Elaheh Amouei, and John and Gissou Farahi,  
15 alleging violations of the federal securities laws arising out of the unregistered and  
16 fraudulent offering and sale of more than \$20 million worth of debentures to more  
17 than 100 investors. (Complaint, Docket No. 1). Because the defendants were  
18 engaged in ongoing fraudulent conduct and due to the risk of dissipation and  
19 further misappropriation of investor funds, the Commission also sought and  
20 obtained a temporary restraining order freezing the assets of NewPoint and the  
21 Farahis. (Temporary Restraining Order, Docket No. 11). On March 17, 2010, the  
22 Court entered a preliminary injunction continuing the freeze over the assets of  
23 NewPoint and the Farahis. (Preliminary Injunction Order, Docket No. 53). That  
24 asset freeze remains in place.

25 Shortly after obtaining the temporary restraining order freezing the assets of  
26 NewPoint and the Farahis, the Commission learned about the Quiff Interactive  
27 Account, a brokerage account held at Interactive Brokers, LLC ("Interactive  
28 Brokers") in the name of Quiff, a Relief Defendant in this case. The account,

1 which contained \$11 million at the time, had been funded from a bank account  
2 domiciled in Cyprus. (*See, e.g.*, Plaintiff Securities and Exchange Commission's  
3 *Ex Parte* Application for Clarification of Court's January 8, 2010 Temporary  
4 Restraining Order Freezing Assets, Docket No. 18). Substantial circumstantial  
5 evidence indicated that the Quiff Interactive Account was controlled by John  
6 Farahi. (*Id.*). For example, the account was frequently accessed by computers  
7 associated with Farahi, trades made in the account parallel the trades made in the  
8 Interactive Brokers account in which Farahi traded NewPoint investor funds, and  
9 the only individual associated with the account, Farid Magbouleh, is a relative of  
10 Farahi. (*Id.*).

11 On March 17, 2010, based on the evidence linking the Quiff Interactive  
12 Account with Farahi, the Court entered a temporary restraining order freezing the  
13 assets in the Quiff Interactive Account.<sup>1</sup> (Temporary Restraining Order Freezing  
14 Assets, Docket No. 52). On March 25, 2010, the Court granted the Commission  
15 expedited discovery regarding the Quiff Interactive Account. (Orders: (1)  
16 Granting Expedited Discovery, (2) Prohibiting the Destruction of Documents, and  
17 (3) Requiring Accountings, Docket No. 79).

18 **B. Farahi's Misrepresentations Regarding The Quiff Interactive**  
19 **Account**

20 In support of Quiff's efforts to remove the freeze of the Quiff Interactive  
21 Account, Farahi made numerous representations to the Court under oath. For  
22 instance, Farahi represented to the Court that (1) he had no knowledge of the source  
23 of the money in the Quiff Interactive Account (Deposition Transcript of John Farahi,  
24 dated March 29, 2010 ("Farahi Tr."), at 42:19-22, Declaration of Bernard B. Smyth  
25 ("Smyth Decl."), Ex. 1), (2) he never asked anyone to transfer money to a bank  
26 account in Cyprus (*id.* at 18:25-19:8), and (3) he never received any compensation  
27

---

28 <sup>1</sup> That asset freeze was continued pursuant to Court's orders of March 29, 2010,  
April 2, 2010, and April 12, 2010. (Docket Nos. 89, 103, and 109).

1 from Quiff and did not expect to receive any compensation from Quiff (Supplemental  
2 Declaration of John Farahi, dated February 5, 2010 ("Supp. Farahi Decl."), ¶ 6, Smyth  
3 Decl., Ex. 2).

4 Based, in part, on these representations, the parties stipulated to the dissolution  
5 of the asset freeze. (Stipulation to Dissolution of March 17, 2010 Temporary  
6 Restraining Order Freezing Assets, Docket No. 122). Upon that stipulation, and also  
7 based on Farahi's representations to this Court regarding the Quiff Interactive  
8 Account, the Court dissolved the asset freeze over the Quiff Interactive Account on  
9 April 27, 2010. (Order, Docket No. 123).

10 **C. The Findings In The Criminal Case Against Farahi**

11 On December 7, 2011, a criminal indictment was filed against Farahi charging  
12 him with 40 counts of violations of federal law, including mail fraud (18 U.S.C. §  
13 1341), bank fraud (18 § U.S.C. 1014), witness tampering (18 U.S.C. § 1512(b)(1)),  
14 obstruction of justice (18 U.S.C. § 1512(c)(2)), and aggravated identity theft (18  
15 U.S.C. § 1028A). (*See U.S. v. Farahi*, CR No. 11-1165-PSG (C.D. Cal.); *see also*  
16 Indictment, Smyth Decl., Ex. 3). In support of its request for detention of Farahi, the  
17 United States of America submitted evidence before Judge Kenton that Farahi was a  
18 flight risk in part because he had control over the substantial funds in the Quiff  
19 Interactive Account. (Government's Memorandum of Points and Authorities in  
20 Support of Government's Request for Detention of Defendant John Farahi, Smyth  
21 Decl., Ex. 4).

22 Magistrate Judge Kenton's findings and the evidence presented in the criminal  
23 case against Farahi establish that Farahi misled this Court to get access to the frozen  
24 Quiff funds. Specifically, the evidence presented at his detention hearing shows that  
25 Farahi actually solicited investors to transfer their money to a bank account in Cyprus  
26 which was used to fund the Quiff Interactive Account. (Memorandum of Interview,  
27 dated September 20, 2010, Smyth Decl., Ex. 5; Memorandum of Interview, dated  
28 January 10, 2011, Smyth Decl., Ex. 6). Farahi admitted that he "referred a few



1 individuals to Quiff.” (Defendant John Farahi’s Memorandum of Points and  
2 Authorities in Support of Application for Review of the Magistrate Judge’s Order of  
3 Detention, dated December 12, 2011 (“Farahi’s Motion Re Order of Detention”), at  
4 10:7, Smyth Decl., Ex. 7). Moreover, Quiff began paying Farahi’s legal fees less than  
5 6 weeks after the freeze over the Quiff Interactive Account was dissolved. (June 2010  
6 Wire Transfers, Smyth Decl., Ex. 8).

7 Based on the evidence presented at his detention hearing, Magistrate Judge  
8 Kenton found that:

9 Mr. Farahi was intricately involved in the Quiff matter which occurred after the  
10 SEC investigation of NewPoint and that he called the shots, if you will, with  
11 regard to what happened to those funds. They went overseas to [Cyprus]. They  
12 came back to a brokerage account. And they were only freed up when – largely  
13 based upon what apparently is false information provided by – primarily by Mr.  
14 Farahi to a federal court that he had no connection.<sup>2</sup>

15 (Transcript of Defendant John Farahi’s Detention Hearing, dated December 9, 2011  
16 (“Detention Hearing Tr.”), at 36:19-37:1, Smyth Decl., Ex. 9). Thus, the new  
17 evidence adduced at the criminal bail hearing established that Farahi misled this Court  
18 concerning his relationship to, and control over, Quiff and the Quiff Interactive  
19 Account.

### 20 **III. ARGUMENT**

21 Given the misrepresentations Farahi made to this Court and the findings in  
22 the related criminal proceeding against him, the Court’s previous order freezing the  
23 Quiff Interactive Account should be reinstated, and Quiff and Farahi should be  
24 ordered to provide an accounting for that account.

---

25  
26 <sup>2</sup> Farahi appealed Magistrate Judge Kenton’s order to Judge Gutierrez and was  
27 eventually released to home detention with electronic monitoring, a secured bond  
28 of \$1.5 million, and conditions restricting his travel and contact with potential  
witnesses in the criminal proceedings. (Order Setting Bail, dated December 15,  
2011, Smyth Decl., Ex. 10).

**A. Farahi Lied To This Court When The Freeze Order Was Lifted**

Federal courts have inherent equitable authority to issue a variety of ancillary relief measures in Commission injunctive actions such as this one. *SEC v. Wencke*, 622 F.2d 1363, 1369 (9th Cir. 1980). Included in these powers is the authority to freeze assets of both parties and nonparties. *SEC v. Hickey*, 322 F.3d 1123, 1131 (9th Cir. 2003); *SEC v. International Swiss Inv. Corp.*, 895 F.2d 1272, 1276 (9th Cir. 1990). Here, the Court has already exercised that authority in ordering a freeze of the Quiff Interactive Account on March 17, 2010.

That freeze was dissolved upon stipulation of the parties only after Farahi made numerous sworn representations to the Court that he had no control over the Quiff Interactive Account, did not know whose money was in the account, and had received no benefit from Quiff and did not anticipate receiving any future benefit from Quiff. Facts that came to light in the course of the recently filed criminal action against Farahi show that those representations were false.<sup>3</sup>

First, the evidence and findings in the criminal proceedings show that – despite what he claimed to this Court – Farahi controls the Quiff Interactive Account. As Magistrate Judge Kenton found, Farahi “called the shots . . . with regard to what happened to [the Quiff Interactive Account] funds.” (Detention Hearing Tr. at 36:21-22, Smyth Decl., Ex. 9).

Second, Farahi admitted that the Quiff Interactive Account contained defrauded investor funds (Farahi’s Motion Re Order of Detention at 10:7, Smyth Decl., Ex. 7) – the exact opposite of what he told this Court. In fact, Farahi, along

---

<sup>3</sup> Through its *Ex Parte* Application, the Commission is currently seeking emergency relief to preserve any remaining funds appropriate for the satisfaction of the ultimate disgorgement order in this case. However, the information revealed in the criminal action against Farahi suggests that Farahi has been engaged in substantial fraud on the Court and violations of Court orders. The Commission is evaluating this evidence to determine whether to seek additional relief in the near future.



1 with his relative, Farid Magbouleh, solicited investors to transfer money to Quiff.  
2 Farahi and Magbouleh made the same misrepresentations to Quiff investors that  
3 Farahi made to solicit NewPoint investors. Quiff investors were told that their  
4 money would be invested in safe securities like certificates of deposits.  
5 (Memorandum of Interview, dated September 20, 2010, Smyth Decl., Ex. 5;  
6 Memorandum of Interview, dated January 10, 2011, Smyth Decl., Ex. 6). Instead,  
7 the money was used to trade in the same type of risky futures options trading that  
8 Farahi conducted with NewPoint investor funds. In short, the Quiff scheme  
9 appears to have been a continuation of the same securities fraud Farahi engaged in  
10 under the NewPoint name.

11 Third, Farahi's declaration that he did not anticipate receiving any  
12 compensation from Quiff was false. (Supp. Farahi Decl., ¶ 6, Smyth Decl., Ex. 2).  
13 Less than 6 weeks after the freeze of the Quiff Interactive Account was lifted,  
14 Quiff began paying Farahi's legal fees. (June 2010 Wire Transfers, Smyth Decl.,  
15 Ex. 8).<sup>4</sup>

16 **B. The Asset Freeze Over The Quiff Interactive Account Should Be**  
17 **Reinstated**

18 Given this new evidence of Farahi's continued use of the Quiff Interactive  
19 Account, the asset freeze previously removed should be reinstated. Courts use  
20 freeze orders to prevent waste and dissipation of assets and to ensure their  
21 availability for disgorgement for the benefit of victims of the fraud. *See e.g.,*  
22 *Hickey*, 322 F.3d at 1132 (affirming imposition of asset freeze over nonparty

---

23  
24 <sup>4</sup> At approximately the same time that the freeze of the Quiff Interactive Account  
25 was lifted, the Court granted, in part, Farahi's motion to modify the broader asset  
26 freeze over Farahi's assets to allow for the payment of living expenses and attorney  
27 fees. (Docket No. 121). That order was based, among other things, on  
28 representations made by Farahi and his counsel that Farahi had no other source of  
funds to cover his living expenses and legal fees and that Farahi had been  
cooperating with the Receiver to turn over assets. (*See, e.g.,* Docket Nos. 60 and  
105).

brokerage firm controlled by the defendant to effectuate disgorgement order against defendant); *SEC v. Manor Nursing Centers*, 458 F.2d 1082, 1105-06 (2d Cir. 1972). Indeed, the Ninth Circuit specifically has found that “the public interest in preserving the illicit proceeds [of a defendant’s fraud] for restitution is great.” *FTC v. Affordable Media, LLC*, 179 F.3d 1228, 1233 (9th Cir. 1999). Courts have similarly recognized that a disgorgement order will often be rendered meaningless unless an asset freeze is imposed prior to the entry of final judgment. *See SEC v. Unifund SAL*, 910 F.2d 1028, 1041 (2d Cir. 1990); *SEC v. Musella*, 578 F. Supp. 425, 429 (S.D.N.Y. 1984). “[W]hen ‘the public interest is involved in a proceeding of this nature, [the district court’s] equitable powers assume an even broader and more flexible character than when only a private controversy is at stake.’” *FSLIC v. Sahni*, 868 F.2d 1096, 1097 (9th Cir. 1989), *citing FTC v. H.N. Singer, Inc.*, 668 F.2d 1107, 1112 (9th Cir. 1982).

Because the evidence presented and findings made in the criminal proceedings show that Farahi continues to use and benefit from the Quiff Interactive Account, this Court should order an asset freeze over that account by reinstating its previous asset freeze order. In addition to the limitations set forth in the original asset freeze order, the freeze order should also apply to any funds disbursed from that account since the previous asset freeze was lifted on April 27, 2010 to the extent those funds are under the custody or control of Quiff, Farahi, and/or their officers, agents, servants, employees, attorneys, subsidiaries, members, relatives, and/or affiliates. Such funds were dissipated from the Quiff Interactive Account only after Farahi, through his false statements, induced the parties and the Court to agree to lift the asset freeze over the account. Quiff, Farahi, and/or their officers, agents, servants, employees, attorneys, subsidiaries, members, relatives, and/or affiliates should not benefit from Farahi’s fraud on the Court. The *status quo* at the time of the original asset freeze over the Quiff Interactive Account should be preserved to the fullest extent possible.

**C. An Accounting and Production of Quiff Bank Statements Should  
Be Ordered**

Quiff and Farahi should also be required to provide an accounting of any disbursements made from the Quiff Interactive Account from the time that the asset freeze over the account was lifted, including the production of bank statements for Quiff's bank account domiciled in Cyprus.

The Court's broad equitable powers in Commission enforcement actions include the ability to order ancillary relief, including requiring an accounting. *Wencke*, 622 F.2d at 1369 (9th Cir. 1980). Here, an accounting is necessary to establish the current location of funds removed from the Quiff Interactive Account after the asset freeze over the account was lifted. The best evidence of such information is likely to be the account statements and related documents from the bank account in Cyprus that was used to fund the Quiff Interactive Account. Therefore, as part of any accounting, Quiff and Farahi should be required to produce all bank statements and related information, including wire transfer confirmations, copies of checks, and all other deposit and withdrawal information from that Cypriot bank account. Moreover, any recipients of disbursements from the Quiff Interactive Account and/or any financial accounts held by Quiff should be required to provide an accounting of the disbursements received and the current location of assets received from Quiff.

///

///

///

///

///

///

///


///

1 **IV. CONCLUSION**

2 For the foregoing reasons, the Court should grant the Commission's *Ex Parte*  
3 Application in the respects indicated herein.

4  
5 Dated: January 18, 2012

Respectfully submitted,

6   
7 \_\_\_\_\_  
Bernard B. Smyth  
8 Attorney for Plaintiff  
Securities and Exchange Commission  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28